MINIMUM STANDARDS FOR LOCAL DETENTION FACILITIES

TITLE 15 – CRIME PREVENTION AND CORRECTIONS
DIVISION 1, CHAPTER 1, SUBCHAPTER 4

2005 MINORS IN ADULT FACILITIES EXCERPT GUIDELINES

TABLE OF CONTENTS

INTRODUCTION

These guidelines cover **Articles 8-10, Title 15, California Code of Regulations, Minimum Standards for Local Adult Detention Facilities, and other applicable sections** relating to minors held in adult facilities (jails, lockups and court holding facilities). The intent of these guidelines is to assist facility administrators, managers, staff and others in understanding the regulations governing the detention of minors in adult facilities. The guidelines are not mandatory and do not cover every contingency. However, they do identify issues that should be considered when developing policies and procedures for implementing the regulations.

California's regulations meet or exceed federal requirements governing the detention of minors in adult facilities (Juvenile Justice and Delinquency Prevention Act [JJDPA] of 2002). **Welfare and Institutions Code (WIC) Sections 207.1** and **208** provide the basis for these regulations. Other sections provide information on holding minors taken into custody as dependent children under 300 WIC **(206 WIC)**; minors taken into custody as "status offenders" under 601 WIC **(207 WIC)**; the inspection responsibilities of the Corrections Standards Authority (CSA) and the juvenile court **(209 WIC)**; and the inspection responsibilities of the Juvenile Justice Commissions **(229 WIC)**.

This document is divided into three basic areas that address the three types of adult detention facilities where minors may be held. For the purpose of these regulations:

- a **"jail"** is defined as a locked adult detention facility which holds both non-sentenced and "convicted adult criminal offenders" **(Article 8)**;
- a **"lockup"** is any locked room or secure enclosure under the control of a peace officer that is primarily for the temporary confinement of adults upon arrest **(Article 9)**; and
- a **"court holding facility"** is a secure detention facility located within a court building, used for the confinement of persons solely for the purpose of a court appearance for a period not exceeding 12 hours **(Article 10)**.

Generally speaking, a jail is a Type II, III or IV local detention facility, while a lockup is a Type I or Temporary Holding facility as defined in Title 15, Section 1006. The circumstances where a minor may be legally detained in a jail are entirely different from those for minors temporarily detained in a law enforcement facility that contains a lockup. Consequently, the regulations governing these two circumstances are also very different. Please refer to Section 1010, which designates the standards that are applicable to each of the three different facility types.

Corrections Standards Authority (CSA) staff is available to provide interpretation and assistance when questions arise about the regulations or guidelines, and there are a number of resources available on the CSA's web site (www.csa.ca.gov). Please contact CSA staff or utilize the web site to access information as needed

ARTICLE 1. GENERAL INSTRUCTIONS

1006. Definitions.

The following definitions shall apply:

"Administering medication," as it relates to managing legally obtained drugs, means the act by which a single dose of medication is given to a patient. The single dose of medication may be taken either from stock (undispensed), or dispensed supplies.

"Administrative segregation" means the physical separation of different types of inmates from each other as specified in Penal Code Sections 4001 and 4002, and Section 1053 of these regulations. Administrative segregation is accomplished to provide that level of control and security necessary for good management and the protection of staff and inmates.

"Alternate means of compliance" means a process for meeting or exceeding standards in an innovative way, after a pilot project evaluation, approved by the Board of Corrections pursuant to an application.

"Average daily population" means the average number of inmates housed daily during the last fiscal year.

"Board of Corrections[1]" means the State Board of Corrections, which board acts by and through its executive director, deputy directors, and field representatives.

"Contact" means communications, whether verbal or visual, or immediate physical presence.

"Court Holding facility" means a local detention facility constructed within a court building after January 1, 1978, used for the confinement of persons solely for the purpose of a court appearance for a period not to exceed 12 hours.

"Custodial personnel" means those officers with the rank of deputy, correctional officer, patrol persons, or other equivalent sworn or civilian rank whose primary duties are the supervision of inmates.

"Delivering medication," as it relates to managing legally obtained drugs, means the act of providing one or more doses of a prescribed and dispensed medication to a patient.

"Developmentally disabled" means those persons who have a disability which originates before an individual attains age 18, continues, or can be expected to continue indefinitely, and constitutes a substantial disability for that individual. This term includes mental retardation, cerebral palsy, epilepsy, and autism, as well as disabling conditions found to be

[1] After completion of the public comment period, the Board of Corrections was renamed the Corrections Standards Authority.

closely related to mental retardation or to require treatment similar to that required for mentally retarded individuals.

"Direct visual observation" means direct personal view of the inmate in the context of his/her surroundings without the aid of audio/video equipment. Audio/video monitoring may supplement but not substitute for direct visual observation.

"Disciplinary isolation" means that punishment status assigned an inmate as the result of violating facility rules and which consists of confinement in a cell or housing unit separate from regular jail inmates.

"Dispensing," as it relates to managing legally obtained drugs, means the interpretation of the prescription order, the preparation, repackaging, and labeling of the drug based upon a prescription from a physician, dentist, or other prescriber authorized by law.

"Disposal," as it relates to managing legally obtained drugs, means the destruction of medication or its return to the manufacturer or supplier.

"Emergency" means any significant disruption of normal facility procedure, policies, or activities caused by a riot, fire, earthquake, attack, strike, or other emergent condition.

"Emergency medical situations" means those situations where immediate services are required for the alleviation of severe pain, or immediate diagnosis and treatment of unforeseeable medical conditions are required, if such conditions would lead to serious disability or death if not immediately diagnosed and treated.

"Exercise" means physical exertion of large muscle groups.

"Facility/system administrator" means the sheriff, chief of police, chief probation officer, or other official charged by law with the administration of a local detention facility/system.

"Facility manager" means the jail commander, camp superintendent, or other comparable employee who has been delegated the responsibility for operating a local detention facility by a facility administrator.

"Health authority" means that individual or agency that is designated with responsibility for health care policy pursuant to a written agreement, contract or job description. The health authority may be a physician, an individual or a health agency. In those instances where medical and mental health services are provided by separate entities, decisions regarding mental health services shall be made in cooperation with the mental health director. When this authority is other than a physician, final clinical decisions rest with a single designated responsible physician.

"Health care" means medical, mental health and dental services.

"Inmate worker," as used in Articles 8 and 9, means an adult in a jail or lockup assigned to perform designated tasks outside of his/her cell or dormitory, for any length of time.

"Jail," as used in Article 8, means a Type II or III facility as defined in the "Minimum Standards for Local Detention Facilities."

"Labeling," as it relates to managing legally obtained drugs, means the act of preparing and affixing an appropriate label to a medication container.

"Law enforcement facility" means a building that contains a Type I Jail or Temporary Holding Facility. It does not include a Type II or III jail, which has the purpose of detaining adults, charged with criminal law violations while awaiting trial or sentenced adult criminal offenders.

"Legend drugs" are any drugs defined as "dangerous drugs" under Chapter 9, Division 2, Section 4211 of the California Business and Professions Code. These drugs bear the legend, "Caution Federal Law Prohibits Dispensing Without a Prescription." The Food and Drug Administration (FDA) has determined because of toxicity or other potentially harmful effects, that these drugs are not safe for use except under the supervision of a health care practitioner licensed by law to prescribe legend drugs.

"Licensed health personnel" includes but is not limited to the following classifications of personnel: physician/psychiatrist, dentist, pharmacist, physician's assistant, registered nurse/nurse practitioner/public health nurse, licensed vocational nurse, and psychiatric technician.

"Living areas" means those areas of a facility utilized for the day-to-day housing and activities of inmates. These areas do not include special use cells such as sobering, safety, and holding or staging cells normally located in receiving areas.

"Local detention facility" means any city, county, city and county, or regional jail, camp, court holding facility, or other correctional facility, whether publicly or privately operated, used for confinement of adults or of both adults and minors, but does not include that portion of a facility for confinement of both adults and minors which is devoted only to the confinement of minors.

"Local detention system" means all of the local detention facilities that are under the jurisdiction of a city, county or combination thereof whether publicly or privately operated. Nothing in the standards are to be construed as creating enabling language to broaden or restrict privatization of local detention facilities beyond that which is contained in statute.

"Local Health Officer" means that licensed physician who is appointed pursuant to Health and Safety Code Section 101000 to carry out duly authorized orders and statutes related to public health within their jurisdiction.

"Lockup" means a locked room or secure enclosure under the control of a peace officer or custodial officer that is primarily used for the temporary confinement of adults who have recently been arrested; sentenced prisoners who are inmate workers may reside in the facility to carry out appropriate work.

"Managerial custodial personnel" means the jail commander, camp superintendent, or other comparable employee who has been delegated the responsibility for operating a local detention facility by a facility administrator.

"Mental Health Director," means that individual who is designated by contract, written agreement or job description, to have administrative responsibility for the facility or system mental health program.

"Non-secure custody" means that a minor's freedom of movement in a law enforcement facility is controlled by the staff of the facility; and

(1) the minor is under constant direct visual observation by the staff;
(2) the minor is not locked in a room or enclosure; and,
(3) the minor is not physically secured to a cuffing rail or other stationary object.

"Non-sentenced inmate," means an inmate with any pending local charges or one who is being held solely for charges pending in another jurisdiction.

"Over-the-counter (OTC) Drugs," as it relates to managing legally obtained drugs, are medications which do not require a prescription (non-legend).

"People with disabilities" includes, but is not limited to, persons with a physical or mental impairment that substantially limits one or more of their major life activities or those persons with a record of such impairment or perceived impairment that does not include substance use disorders resulting from current illegal use of a controlled substance.

"Pilot Project" means an initial short-term method to test or apply an innovation or concept related to the operation, management or design of a local detention facility pursuant to application to, and approval by, the Board of Corrections.

"Procurement," as it relates to managing legally obtained drugs, means the system for ordering and obtaining medications for facility stock.

"Psychotropic medication" means any medication prescribed for the treatment of symptoms of psychoses and other mental and emotional disorders.

"Rated capacity" means the number of inmate occupants for which a facility's single and double occupancy cells or dormitories, except those dedicated for health care or disciplinary isolation housing, were planned and designed in conformity to the standards and requirements contained in Title 15 and Title 24.

"Regional Center for Developmentally Disabled" means those private agencies throughout the state, funded through the Department of Developmental Services, which assure provision of services to persons with developmental disabilities. Such centers will be referred to as regional centers in these regulations.

"Remodel" means to alter the facility structure by adding, deleting, or moving any of the buildings' components thereby affecting any of the spaces specified in Title 24, Section 2-470A.

"Repackaging," as it relates to managing legally obtained drugs, means the transferring of medications from the original manufacturers' container to another properly labeled container.

"Repair" means to restore to original condition or replace with like-in-kind.

"Safety checks" means regular, intermittent and prescribed direct, visual observation to provide for the health and welfare of inmates.

"Secure detention" means that a minor being held in temporary custody in a law enforcement facility is locked in a room or enclosure and/or is physically secured to a cuffing rail or other stationary object.

"Security glazing" means a glass/polycarbonate composite glazing material designed for use in detention facility doors and windows and intended to withstand measurable, complex loads from deliberate and sustained attacks in a detention environment.

"Sentenced inmate," means an inmate that is sentenced on all local charges.

"Shall" is mandatory; "may" is permissive.

"Sobering cell" as referenced in Section 1056, refers to an initial "sobering up" place for arrestees who are sufficiently intoxicated from any substance to require a protected environment to prevent injury by falling or victimization by other inmates.

"Storage," as it relates to legally obtained drugs, means the controlled physical environment used for the safekeeping and accounting of medications.

"Supervision in a law enforcement facility" means that a minor is being directly observed by the responsible individual in the facility to the extent that immediate intervention or other required action is possible.

"Supervisory custodial personnel" means those staff members whose duties include direct supervision of custodial personnel.

"Temporary custody" means that the minor is not at liberty to leave the law enforcement facility.

"Temporary Holding facility" means a local detention facility constructed after January 1, 1978, used for the confinement of persons for 24 hours or less pending release, transfer to another facility, or appearance in court.

"Type I facility" means a local detention facility used for the detention of persons for not more than 96 hours excluding holidays after booking. Such a Type I facility may also detain persons on court order either for their own safekeeping or sentenced to a city jail as an inmate worker, and may house inmate workers sentenced to the county jail provided such placement in the facility is made on a voluntary basis on the part of the inmate. As used in this section, an inmate worker is defined as a person assigned to perform

designated tasks outside of his/her cell or dormitory, pursuant to the written policy of the facility, for a minimum of four hours each day on a five day scheduled work week.

"Type II facility" means a local detention facility used for the detention of persons pending arraignment, during trial, and upon a sentence of commitment.

"Type III facility" means a local detention facility used only for the detention of convicted and sentenced persons.

"Type IV facility" means a local detention facility or portion thereof designated for the housing of inmates eligible under Penal Code Section 1208 for work/education furlough and/or other programs involving inmate access into the community.

Guideline: This regulation establishes definitions for key terms used throughout the regulations. These definitions are also in **Title 24, Part I, Section 13-102** and some are repeated in **Title 24, Part 2, Section 470A**. The definitions apply throughout the standards and are necessary for a common understanding of jail operations, programs, health care, nutrition and design elements. These definitions are the building blocks that help determine the applicability of the standards and create a common frame of reference so that administrators, staff, funding agencies, boards of supervisors, city councils, jail inspectors and others can share a common vocabulary relative to jail issues. These are the "terms of the art" which underlie the **Minimum Standards for Local Detention Facilities.**

While most of the definitions are self-explanatory and should be referred to whenever there is a question about a particular term, certain areas are highlighted below.

Facility/System Administrator: The facility administrator is usually the sheriff, chief of police or other official charged by law with the administration of the facility. In a large system, the facility administrator is likely to be different from the facility manager who is the facility director, superintendent or comparable position. The facility manager has primary operational responsibility for a facility.

Health Authority/Responsible Physician: The health authority is responsible for health care policy and services pursuant to a written agreement or job description. A health authority could be an agency or an individual. If the authority is an agency, there needs to be a medically trained individual at the agency who has responsibility for developing health care policy and who may also administratively manage services. This individual must be accessible to facilities in the detention system. There is a distinction between the health authority and the responsible physician. The responsible physician is a licensed clinician who provides health care services and is the final arbiter of clinical policy and decisions. They may be the same person, but that is not required.

Inmate Workers: As referenced in relation to juveniles held in law enforcement lockups and court holding facilities **(Articles 8 and 9)**, inmate workers include adult inmates who are out of their cells for any length of time to perform designated tasks. This definition enables **Title 15** regulations to be consistent with federal requirements governing the presence of adult inmates when juveniles are detained in the same area. The definition for a "Type I facility" continues to require that an inmate be assigned to perform designated tasks outside his/her cell or dormitory for a minimum of four hours per day (on a five-day schedule) to be considered an inmate worker.

With the exception of inmate workers and certain inmates who are held under court order for safekeeping, Type I facilities can only detain persons for 96 hours (after booking and holidays).

Pharmaceutical Management: The terms administering medication, delivering medication, dispensing, disposal, legend drugs, labeling, over-the-counter (OTC) drugs, repackaging, storage, and disposal, are limited to the pharmaceutical management of legally obtained drugs covered in **Section 1216, Pharmaceutical Management**.

Rated Capacity: This describes the housing capacity of a facility based on compliance with all applicable minimum jail standards. Rated capacity (RC) is frequently confused with similar terms such as "design capacity" and "self-rated capacity," neither of which is defined in regulation.

The rated capacity of a facility refers to housing beds for the general inmate population. It does not include: special use cells (e.g., safety cells, sobering cells, or holding/staging cells); housing units for disciplinary isolation; or sheltered housing dedicated to medical and/or mental health units. However, cells and housing units which may be used for a dual purpose depending upon daily circumstances, such as disciplinary isolation or general housing, are included as part of the RC because they can function as general population housing. Dual use cells are often found in modern podular style facilities. Older, linear style jails were generally designed with a specific function for each cell area, making dual use difficult. Administrative segregation housing is considered part of the general population and thus is included in the determination of rated capacity.

Rated capacity calculations are based on the physical plant requirements in effect at the time the facility was designed, or when individual areas are remodeled. There are several different sets of standards that may be applicable, and new ones are added with each regulation revision. The standards for older facilities are found in historical editions of **Title 15**. In 1991, regulations dealing with physical plant standards were moved into **Title 24, State Building Code, CCR**. All standards dealing with either the physical plant or design and submittal issues are now located in **Title 24**. Establishing the rated capacity of a jail may involve multiple standards revisions and issues that should be discussed with CSA staff when there are questions.

Special use cells (e.g., temporary holding, staging, court holding, sobering, and safety cells) are individually rated for the number of inmates held. That capacity, although based on minimum jail standards, does not expand the housing capacity of a jail; therefore, it is not considered part of facility rated capacity. These numbers may be viewed as holding capacity rather than "housing" capacity.

In special studies, such as determining the cost effectiveness of jail construction projects, there may be a need to consider more than rated capacity. The term "design capacity" has been used to measure facilities based on expanded criteria. In this context, "design capacity" comprises all the beds in all housing areas including those specialized units that were omitted in the rated capacity (still omitting special use cells not used for housing, such as: temporary holding, staging, court holding, sobering, and safety cells). "Design capacity" is used in calculating cost per bed and square feet per bed, and may have special meaning during jail design. See **Title 24, Parts 1 and 2.**

Local jurisdictions occasionally use the term "self-rated capacity" This has no reference in regulation and usually refers to the number of temporary beds that have been added to the facility by the facility administrator in response to population pressures. These beds have often created conditions that lead to litigation and court ordered population caps; they are not included in the rated capacity.

The rated capacity does not necessarily reflect constitutional minimums. This capacity is based on regulations that are created by subject-matter experts and typically reflect a mix of what is held to be good practice and case law. Successful pilot projects and changes in case law provide the primary basis for revision of the standards. There is no intent in these regulations to imply that to exceed a rated capacity by "one more" inmate(s), would, in itself, create an unconstitutional condition. Some courts, under specific circumstances, have established population caps in excess of the RC. Court ordered caps should be regarded as establishing the constitutional limits for housing inmates. Failure to comply with a court ordered cap is the basis of a contempt of court proceeding against a facility administrator. At the same time, a facility may be in compliance with a court order and not comply with minimum jail standards.

Types of Facilities: When determining the appropriate classification (type) for a facility, the administrator must first consider the facility operation. Each type of facility is required to meet a different number of standards, and these standards carry with them varying staffing and training requirements **(Section 1010, Applicability of Standards).** The facility administrator should ultimately make this decision based on the purpose and operation of the facility and a cost/benefit analysis. Generally speaking, the longer inmates are held in a facility and the more complex the facility, the higher the level of staffing and training that is required.

ARTICLE 2. INSPECTION AND APPLICATION OF STANDARDS

1018. Appeal.

The appeal hearing procedures are intended to provide a review concerning the Board of Corrections application and enforcement of standards and regulations in local detention facilities and lockups. A county, city, or city and county facility may appeal on the basis of alleged misapplication, capricious enforcement of regulations, or substantial differences of opinion as may occur concerning the proper application of regulations or procedures.

(a) Levels of Appeal.
- **(1) There are two levels of appeal as follows:**
  - **(A) appeal to the Executive Director; and,**
  - **(B) appeal to the Board of Corrections.**
- **(2) An appeal shall first be filed with the Executive Director.**

(b) Appeal to the Executive Director.
- **(1) If a county, city, or city and county facility is dissatisfied with an action of the Board of Corrections staff, it may appeal the cause of the dissatisfaction to the Executive Director. Such appeal shall be filed within 30 calendar days of the notification of the action with which the county or city is dissatisfied.**
- **(2) The appeal shall be in writing and:**
  - **(A) state the basis for the dissatisfaction;**
  - **(B) state the action being requested of the Executive Director; and,**
  - **(C) attach any correspondence or other documentation related to the cause for dissatisfaction.**

(c) Executive Director Appeal Procedures.

(1) The Executive Director shall review the correspondence and related documentation and render a decision on the appeal within 30 calendar days except in those cases where the appellant withdraws or abandons the appeal.

(2) The procedural time requirement may be waived with the mutual consent of the appellant and the Executive Director.

(3) The Executive Director may render a decision based on the correspondence and related documentation provided by the appellant and may consider other relevant sources of information deemed appropriate.

(d) Executive Director's Decision.

The decision of the Executive Director shall be in writing and shall provide the rationale for the decision.

(e) Request for Appeal Hearing by Board.

(1) If a county, city, or city and county facility is dissatisfied with the decision of the Executive Director, it may file a request for an appeal hearing with the Board of Corrections. Such appeal shall be filed within 30 calendar days after receipt of the Executive Director's decision.

(2) The request shall be in writing and:

(A) state the basis for the dissatisfaction;

(B) state the action being requested of the Board; and,

(C) attach any correspondence related to the appeal from the Executive Director.

(f) Board Hearing Procedures.

(1) The hearing shall be conducted by a hearing panel designated by the Chairman of the Board at a reasonable time, date, and place, but not later than 21 days after the filing of the request for hearing with the Board, unless delayed for good cause. The Board shall mail or deliver to the appellant or authorized representative a written notice of the time and place of hearing not less than 7 days prior to the hearing.

(2) The procedural time requirements may be waived with mutual consent of the parties involved.

(3) Appeal hearing matters shall be set for hearing, heard, and disposed of by a notice of decision within 60 days from the date of the request for appeal hearing, except in those cases where the appellant withdraws or abandons the request for hearing or the matter is continued for what is determined by the hearing panel to be good cause.

(4) An appellant may waive a personal hearing before the hearing panel and, under such circumstances, the hearing panel shall consider the written information submitted by the appellant and other relevant information as may be deemed appropriate.

(5) The hearing is not formal or judicial in nature. Pertinent and relative information, whether written or oral, shall be accepted. Hearings shall be tape recorded.

(6) After the hearing has been completed, the hearing panel shall submit a proposed decision in writing to the Board of Corrections at its next regular public meeting.

(g) Board of Corrections' Decision.

(1) The Board of Corrections, after receiving the proposed decision, may:

(A) adopt the proposed decision;

(B) decide the matter on the record with or without taking additional evidence; or,

(C) order a further hearing to be conducted if additional information is needed to decide the issue.

(2) the Board, or notice of a new hearing ordered, notice of decision or other such actions shall be mailed or otherwise delivered by the Board to the appellant.

(3) The record of the testimony exhibits, together with all papers and requests filed in the proceedings and the hearing panel's proposed decision, shall constitute the exclusive record for decision and shall be available to the appellant at any reasonable time for one year after the date of the Board's notice of decision in the case.

(4) The decision of the Board of Corrections shall be final.

Guideline: In most cases, differences of opinion concerning the application of regulations are resolved informally between the jurisdiction, the Corrections Standards Authority inspector, and, if necessary, the inspector's immediate supervisor. When it is not possible to resolve such differences in this manner, this section establishes a process by which concerns can be reviewed by the Executive Director, culminating in a hearing before the appointed Corrections Standards Authority.

ARTICLE 4. RECORDS AND PUBLIC INFORMATION

1046. Death in Custody.

(a) Death in Custody Reviews for Adults and Minors

The facility administrator, in cooperation with the health administrator, shall develop written policy and procedures to assure that there is a review of every in-custody death. The review team shall include the facility administrator and/or the facility manager, the health administrator, the responsible physician and other health care and supervision staff who are relevant to the incident.

(b) Death of a Minor

In any case in which a minor dies while detained in a jail, lockup, or court holding facility:

(1) The administrator of the facility shall provide to the Board of Corrections a copy of the report submitted to the Attorney General under Government Code Section 12525. A copy of the report shall be submitted to the Board within 10 calendar days after the death.

(2) Upon receipt of a report of death of a minor from the administrator, the Board may within 30 calendar days inspect and evaluate the jail, lockup, or court holding facility pursuant to the provisions of this subchapter. Any inquiry made by the Board shall be limited to the standards and requirements set forth in these regulations.

Guideline: There are several kinds of reviews that are triggered by a death in custody. In addition to the review referenced in this regulation, there is also an immediate review for the purpose of determining the most likely cause of death, the circumstances surrounding it, factors which may have contributed to it, and what emergency procedures might need to be implemented. It is necessary to ask these questions about every death. Even in cases of death by natural causes, sick call or other routine procedures may need closer scrutiny or modification (i.e., had the inmate complained about something in the past, how had the complaint been handled, etc.).

All circumstances surrounding the death should be evaluated from both a health care and custody perspective. The review may also identify areas where the integration of custody and health care policies need improvement. Did health care or custody personnel see the individual prior to his/her death? What was the individual's complaint? What was charted, if anything, on the health care record or in the custody log? What does the coroner's report indicate as the cause of death? Were there any time delays in seeking medical or mental health assistance? All information relative to the death gathered by health care or custody staff should be reviewed.

A review of custody operations and responses will help to determine if policy and procedures need to be modified in light of the circumstances. This review may also indicate deficiencies in training and provide valuable training material to staff in order to better handle similar situations in the future.

The medical review is a thorough assessment of the conditions surrounding an inmate's death. The purpose is to alert the medical delivery system to any weaknesses or failures on its part that may have lead to the death or failed to prevent it. Thus, it is an additional quality control of the facility medical service. This review should be performed after all autopsy and other reports have been received, which could take more time than anticipated, especially if a criminal investigation is being conducted. Nonetheless, the medical review will be inadequate if conducted too soon; it must be a final review and incorporate all previous reports and relevant information.

Typically, the review team should include health care and custody staff who are relevant to the incident, as well as the facility manager, health administrator and responsible physician. Administrators and managers need to be aware of what is occurring in their facility and should either participate directly or designate staff to participate as their representatives, as in any other kind of investigation.

County counsel or the city attorney should be consulted when developing review committee responsibilities, obligations, immunities, and authority in order to ensure the protection of review committee members, the agency and the city or county. Documentation of these reviews should not be taken lightly. The documents are "discoverable" during litigation, and counsel may recommend limiting the review to oral reports, with documentation noting only that the committee met.

Government Code Section 12525 requires all detention facilities to submit a "death in custody report" to the Attorney General, California Department of Justice (DOJ) within ten (10) days of the death. There are specific DOJ forms for reporting these deaths that is available from that department. (The forms are available on state or federal websites and the State DOJ Criminal Justice Statistics Center can assist in locating the most current documents; **http://www.caag.state.ca.us**). DOJ procedures require that the facility attach the incident report describing the events surrounding the death.

Death of a Minor: **Section (b)** of this regulation requires that a copy of the information going to the DOJ also be forwarded to the Corrections Standards Authority within the 10-day timeframe, and allows the CSA to inspect and evaluate the facility where a minor has died.

Documenting a minor's death and the conditions surrounding it provides assistance to staff and administrators who may be called to testify about an incident months or years after it occurred.

This documentation also provides information about conditions in a facility and may indicate where staff needs additional training or where procedures are not serving the purpose for which they were designed.

1047. Serious Illness or Injury of a Minor in an Adult Detention Facility.

The facility administrator shall develop policy and procedures for notification of the court of jurisdiction and the parent, guardian, or person standing in loco parentis, in the event of a suicide attempt, serious illness, injury or death of a minor in custody.

Guideline: This regulation requires that parents or guardians, and court of jurisdiction if the minor is involved in a court proceeding, be notified if the minor attempted suicide, was seriously ill or injured, or died. Policies must define the illnesses and injuries that are included and establish procedures to notify the individuals identified in the regulation. When a high risk minor is transported from the facility for emergency care, it is important that the timing of family notification not alert others in the community who might facilitate an escape or threaten the safety of the minor and/or transporting staff.

ARTICLE 8. MINORS IN JAILS

1100. Purpose.

The purpose of this article is to establish minimum standards for local adult detention facilities, types II and III, in which minors are lawfully detained.

Unless otherwise specified in statute or these regulations, minors lawfully held in local adult detention facilities shall be subject to the regulations and statutes governing those facilities found in Minimum Standards for Local Detention Facilities, Title 15, Division 1, Chapter 1, Subchapter 4, Section 1000 et seq. and Title 24, Part 1, Section 13-102, and Part 2, Section 470A, California Code of Regulations.

An existing jail built in accordance with construction standards in effect at the time of construction and approved for the detention of minors by the Board shall be considered as being in compliance with the provisions of this article unless the condition of the structure is determined by the Board to be dangerous to life, health or welfare of minors.

Guideline: This regulation specifies that minors detained in Type II and III facilities are subject to all of the regulations in Title 15, California Code of Regulations, *Minimum Standards for Local Detention Facilities*, unless otherwise specified. The regulations contained in **Article 8, Minors in Jails,** are to be complied with *in addition* to those regulations found in Articles 1-7.

Minors awaiting prosecution or sentencing are usually confined in Type II jails. In a limited number of cases, a person under 18 may be convicted of a crime and sentenced to a Type III facility. This would be rare, because state law **(Section 208 of the Welfare and Institutions Code [WIC])** requiring separation of minors from adults in such facilities would still apply, and most existing facilities do not have the capability to provide such separation. **Section 208 (c) WIC** also permits participation by minors in work furlough programs, supervised treatment programs and supervised group therapy; but again, separate housing is required.

Under California statute, a minor is defined as a person under 18 years of age. **Sections 207.1 (b) and 207.6 WIC** provide for the confinement of minors in adult jails under specified

conditions. In order to be admitted to and lawfully detained in an adult jail, a minor must have been determined by the juvenile court to be unfit for juvenile court proceedings and ordered transferred to adult criminal court for prosecution. The minor may be remanded to the custody of the sheriff and be housed in a facility that meets statutory requirements for separation from adults.

According to federal law, a minor under the age of 18 who has been remanded to the adult court is considered an adult; as a result, federal law does not require separation between such minors and adult prisoners. California law is more restrictive than federal law in this regard; such individuals are considered minors in California and therefore, separation must be maintained in jails.

1101. Restrictions on Contact with Adult Prisoners.

The facility administrator shall establish policies and procedures which ensure that contact between detained minors and adults confined in the facility shall be restricted as follows:

(a) verbal, non-verbal, or visual communication between minors and adult prisoners shall not be allowed;

(b) situations in which a minor and an adult prisoner may be in the same room, area or corridor are limited to:

(1) booking;

(2) awaiting visiting or sick call;

(3) inmate workers present while performing work necessary for the operation of the facility, such as meal service and janitorial services;

(4) movement of prisoners in custody within the facility.

When an adult prisoner, including an inmate worker, is present, facility staff trained in the supervision of inmates shall maintain a constant side by side presence with either the minor or the adult to assure there are no communications between the minor and the adult.

(c) the above restrictions do not apply to minors who are participating in supervised program activities pursuant to Section 208 (c) of the Welfare and Institutions Code.

Guideline: The basis of the prohibition on contact between adults and minors is described in **WIC Section 208(a)** and the **Juvenile Justice and Delinquency Prevention Act (JJDPA) of 2002**. This section deems it unlawful to allow any person under 18 years of age who is detained in or sentenced to a jail to come into or remain in contact with adults in any institution where adults are confined.

"Contact" is defined in **Section 1006** as, "communications, whether visual or verbal, or immediate physical presence." Hand signs, written messages and bodily gestures are examples of non-verbal or visual communication. Placing a minor in the same cell with an adult, even if there were no communications, is prohibited. It is important to note that a minor overhearing an adult inmate speaking, such as when an adult inmate calls for correctional staff, is not prohibited. This is considered "ambient noise," not communication.

Situations in which minors and adult prisoners may come into contact are identified in **Section (b)** of this regulation. This section specifies that a minor who is lawfully detained in a jail might be in the "incidental" physical presence of an adult prisoner, and the facility would still be in

compliance with statutes and regulations. In all occasions where this incidental presence occurs, facility staff trained in the supervision of inmates shall maintain constant side-by-side presence with either the minor or the adult to prevent communications by either person.

Most of the situations listed in this regulation are self-explanatory; however, the term "booking" requires additional discussion. "Booking" is a generic term to describe the intake process for an individual who has been recently arrested or transferred into a detention facility. The exception which allows minors to be booked at a jail occurs when a minor is transferred to the jail pursuant to a finding by the juvenile court that a minor committed an offense enumerated in **707.01 WIC** and is transferred to the adult court in accordance with Section **207.1 WIC**. This exception does not extend to circumstances where a minor is in temporary custody (fresh arrest) for an offense under **602 WIC**. **WIC Section 207.1 (j)** discusses those situations in which a minor under arrest may be brought into a jail.

Section (c) addresses exceptions to restrictions on contact delineated in **Section 208(c) WIC,** which allows minors to come into contact with adult inmates while participating in supervised programs including group therapy, supervised treatment activities, work furlough programs, and hospital recreation activities.

Although it is essential to restrict a minor's contact with adult inmates, jail administrators should consider alternative programming options for minors in adult jails in order to alleviate unnecessary isolation of minors. Oftentimes, there is only one minor in an adult jail system, which inevitably leads to segregated housing and limited access to jail programs aside from academics and physical recreation. Classification provides an opportunity for exploring programming options for minors in jails. While ensuring that contact does not occur, minors in adult jails should be able to reasonably enjoy the same privileges as adult prisoners.

In all cases, the minor's living arrangements must be strictly segregated, and all precautions must be made to prevent unauthorized contact.

1102. Classification.

The facility administrator shall develop and implement a written plan designed to provide for the safety of staff and minors held at the facility. The plan shall include the following:

- **(a) a procedure for receiving and transmitting information regarding minors who present a risk or hazard to self or others while confined at the facility, and the segregation of such minors to the extent possible within the limits of the facility.**
- **(b) a procedure to provide care for any minor who appears to be in need of or who requests medical, mental health, or developmental disability treatment. Written procedures shall be established by the responsible health administrator in cooperation with the facility administrator.**
- **(c) a suicide prevention program designed to identify, monitor, and provide treatment to those minors who present a suicide risk.**
- **(d) provide that minors be housed separately from adults and not be allowed to come or remain in contact with adults except as provided in Sections 208(c) of the Welfare and Institutions Code.**

Guideline: Minors in a Type II or III jail should be classified according to the facility's existing

classification system, with added emphasis on the issues contained in this regulation. This regulation is not intended to supersede **Title 15, Section 1050, Classification** (see guidelines for Section 1050). Rather, this regulation adds emphasis on suicide risks and medical/mental health treatment for minors in jails. A facility's classification system must separate minors from adults and highlight the enhanced risks that minors face when detained in an adult jail.

Minors tend to be more suicide prone than adults. It is generally held that such acts occur out of feelings of isolation, humiliation, parental deprivation, depression and lack of self-worth. These feelings, which are much more likely to be prevalent among youth held in detention facilities, may accompany or be masked by negative or hostile attitudes and acting out behavior, sometimes of violent proportion. Some general commonalities of suicide are that a person is almost always alone; it usually occurs either early in the detention experience or after some significant event (such as sentencing or a family visit); it tends to happen at night or at other times when supervision is minimal; and it is more likely to occur in a detention facility as opposed to a treatment facility. A facility administrator, in cooperation with the local health authority, should give high priority to a suicide prevention program that includes, at a minimum, screening and identification, close supervision and the availability of crisis mental health care and ongoing counseling. Please refer to **Section 1219, Suicide Prevention Program** for further discussion.

All medical, mental health, dental and related services provided to adult inmates in accordance with the adult standards must also be available to minors. However, necessary health services for minors, especially those 14 and 15 years of age, may differ somewhat from those for adults. If minors are detained in an adult jail, the facility administrator should coordinate with the appropriate health authority in establishing procedures and protocols for addressing any special or unique health care needs of minors. If a minor appears to be in need of any health care services, complains of not feeling well, or specifically requests such services, the facility must have the ability and resources to respond in a timely manner.

While ensuring that contact between minors and adult inmates does not occur, facility administrators should allow minors to enjoy some of the same programming privileges that adults in jail have available. Programming options may help to alleviate isolation of a single minor in jail. Please refer to **Section 208 (c) WIC** and the guidelines for **Section 1101** for further discussion.

1103. Release Procedures.

Facility staff shall notify the parents or guardians prior to the release of a minor. The minor's personal clothing and valuables shall be returned to the minor, parents or guardian, upon the minor's release or consent.

Guideline: When a minor is released from a jail, adult standards and practices will normally apply. In addition to these procedures, jail staff will need to contact the parent(s) or guardian(s) of the minor and allow them reasonable time to arrive at the facility. This provision does not apply to minors who have been emancipated by a court determination. The minor's clothing and valuables shall be given to the minor upon release or given to a parent or guardian, with the minor's consent, at any time during detention. This regulation does not apply to clothing or valuables lawfully taken from the minor as evidence.

1104. Supervision of Minors.

The facility administrator shall develop and implement policy and procedures that provide for:

(a) continuous around-the-clock supervision of minors with assurance that staff can hear and respond; and,

(b) safety checks of minors no less than every 30 minutes on an irregular schedule. These safety checks shall include the direct visual observation of movement and/or skin. Safety checks shall not be replaced, but may be supplemented by, an audio/visual electronic surveillance system designed to detect overt, aggressive, or assaultive behavior and to summon aid in emergencies. All safety checks shall be documented.

Guideline: The adult standards related to the number of personnel and the supervision of adult inmates **(Section 1027, Number of Personnel)** also apply to minors held in jails. This standard is an enhancement of the adult regulations and recognizes the need to provide closer supervision of minors in this environment. Minors incarcerated in jails usually pose an increased possibility of self-destructive behavior. Recognizing this, in addition to increased diligence on the part of jail staff, more frequent "safety checks" than those afforded the adult general population is required.

Subsection (a) describes the requirement to provide "continuous around-the-clock" supervision of minors in jails. This can be accomplished by either direct supervision or by stationing correctional staff within hearing distance of minors and may be supplemented with "sound or inmate actuated" audio monitoring devices. This **continuous** supervision shall only apply to those times between the safety checks provided for in **Subsection (b).**

Safety checks for minors must occur no less than every 30 minutes (vs. 60 minutes for adult inmates). These checks should be made on an irregular basis to decrease the likelihood that the minors will anticipate the exact time of the checks. Other variables such as the minor's demeanor and/or emotional state, physical location of the minor, or time of day may dictate that safety checks occur more frequently. Ultimately, jail managers who require more frequent checks of minors in their facility may reduce their exposure to litigation. The more frequently staff observe minors, the more opportunity there is to supervise and intervene if necessary. Safety checks may be conducted more frequently than the 30-minute timeframe, and may be recorded anytime jail staff observes the minor. For example, safety checks may occur when staff is distributing meals, clothing, bedding or mail, and any other time staff is in the position to assess the well being of the minor. Every safety check must be documented.

There is a slight difference between the definitions of "direct visual observation" for adults and juveniles. In the juvenile regulations, direct visual observation requires that staff sees a minor's "movement and/or skin" while performing a check. The definition of direct visual observation in the adult regulations does not include this provision. While the intent of the definitions is identical, a higher standard of staff observing movement and/or skin of a minor shall be incorporated into safety checks to ensure the safety of minors. All safety checks must be through the eyes of staff and not through the lens of a camera or audio device.

In direct or indirect continuous supervision jails where minors are in dayrooms much of the time, and where staff is continuously present, it may not be necessary to have a specific log to

document the regular checks of minors. An appropriate general log, activity log, shift log or control room log that assures that staff were continuously at their post will suffice. However, if a minor is locked in his/her individual cell, staff must conduct appropriate safety checks and document results.

Credibility of safety check documentation is critical, especially if litigation ensues. Jail supervisors should frequently review any forms used for documenting safety checks (two to three times a shift). All notations should reflect the exact time the check occurs in a format that prohibits the ability to alter the document. The use of a bound log with all entries in ink usually will suffice. It is not recommended to use pencil to record safety checks or use correction fluid to alter safety checks documented in error. A single cross out of the erroneous entry will suffice.

1105. Recreation Programs

The facility administrator shall develop written policies and procedures to provide a recreation program that shall protect the welfare of minors and other inmates, recognize facility security needs and:

(a) comply with minimum jail standards, for minors who are 16 years or older; and,

(b) assure that minors under the age of 16 are provided with at least one hour of exercise and constructive leisure time activity each day, not including unstructured activities such as watching television. Exercise and constructive leisure time activity means an activity in an area designated for recreation and includes sports, games and physical exercise.

Guideline: Recreation and exercise for minors takes on added importance primarily because of the continuing developmental needs of adolescents. When a minor under 16 years of age is detained in an adult jail, provision must be made for exercise and recreation on a scheduled basis **at least one hour per day**. Such activity shall consist of the opportunity for large muscle exercise in an area specifically designed for such purpose. An exercise area usually available to adults may be used, as long as such use is at a time when no adult inmates are present. Daily exercise is not only important for youth development purposes but also helps in maintaining a positive environment in the custody setting. Detained minors are often immature, unstable and volatile, especially those transferred to jails. The opportunity for release of energy and hostility that exercise provides, and the time outside the room or cell, is likely to have a positive and calming effect on minors. Consistent with the security of the facility and safety of staff and minors, group or team recreational activities should be encouraged when possible.

Minors who are over 16 years of age must be provided at least the same opportunity for exercise and recreation as adult inmates in the facility. Since these minors tend to be more physically mature, their exercise and recreation needs relate more closely to those for adults than for minors who are 14 or 15 years old. This is supported by the fact that high schools used to require physical education all four years but now require it only in the first two years. The factors resulting in a minor's detention in a jail vs. a juvenile facility, where comprehensive recreation programs are available, may be an indication that he/she is unresponsive to such services. Access to minimally required exercise and recreation for such minors must not be withheld unless there is a compelling safety or security concern affirmed by a supervisory person. Even under these circumstances, the minor should be returned to such activity as soon as possible and encouraged to take full advantage of such opportunities. Whenever possible, opportunities for exercise and recreation should be outside or in an open-air portion of the facility.

In addition to exercise and recreation as prescribed by minimum standards, minors should be provided dayroom or other out of cell time for reading, television viewing, table games and other leisure time pursuits. Such activity should be scheduled at least one hour per day or more if consistent with safety and security needs and resources available to the facility. Such activities should be viewed as a supplement to, not a replacement for, exercise and recreation. An effective and well-equipped exercise and recreation program for minors detained in adult jails can be a positive behavior control strategy. It can also provide a venue for constructive interaction and relationships with staff and other minors. If positively utilized, it has a strong potential in reducing suicide attempts. Exercise and recreation for inmates in jails has been subject to extensive litigation and a well-conceived and managed program for minors in these facilities would likely reduce such litigation in the future.

1106. Disciplinary Procedures.

Nothing in this regulation shall prevent the administrator from removing a detained minor from the general population or program for reasons of the minor's mental or physical health; or under any circumstances in which the safety of the minor, other inmates, staff, the program or community is endangered, pending a disciplinary action or review.

- **(a) Minors requiring disciplinary confinement shall be housed only in living areas designated for the detention of minors.**
- **(b) Permitted forms of discipline include:**
  - **(1) loss of privileges; and,**
  - **(2) disciplinary confinement.**
- **(c) Access to visitation and recreation shall be restricted only after a second level review by a supervisor or manager, and shall not extend beyond five days without subsequent review.**
- **(d) A status review shall be conducted for those minors placed in disciplinary confinement no less than every 24 hours.**
- **(e) Prohibited forms of discipline include:**
  - **(1) discipline that does not fit the violation;**
  - **(2) corporal punishment;**
  - **(3) inmate imposed discipline;**
  - **(4) placement in safety cells;**
  - **(5) deprivation of food; and,**
  - **(6) the adult disciplinary diet.**

Guideline: The plan for inmate discipline in the adult standards **(see Sections 1080 and 1081, Title 15)** also applies to minors detained in jails. These standards assure that a minor will be knowledgeable of the facility's rules and what is expected of him or her, include the concept of the least severe action commensurate with the behavior and safety or security of the facility, and provide due process protections in the event that formal disciplinary action is taken. The inmate grievance procedure described in **Section 1073** is also applicable. Guidelines related to these sections should also be reviewed.

Minors on disciplinary confinement status cannot be placed in administrative segregation or disciplinary housing units in which adults are confined, unless one particular area or cell has been designated and approved for minors. Minors who are confined to a room or cell as a

disciplinary measure must be detained in the area set aside for minors. Use of the term "disciplinary confinement" as opposed to "disciplinary isolation" is purposeful. While safety, security and order must be primary considerations and facility rules must be obeyed, care must be taken in deciding when and how to discipline minors. Sometimes problem behavior is exacerbated with strict isolation. The suicide risk in isolation and the mental state of the minor must also be considered. Frequent safety checks at irregular intervals must be made and documented. Counseling should be provided, and the minor should return to regular program status at the earliest possible time.

The only other form of discipline permitted for minors in jail is loss of privileges, which include commissary, personal correspondence, television viewing, and services and activities that exceed those required by minimum standards. Access to visitation and recreation can be restricted in severe cases and must receive a second level of authorization by a supervisor or manager. Minors in disciplinary confinement must have such status reviewed by a supervisor or manager at not more than 24 hour intervals, and the reasons for continuing the confinement must be explained to the minor and documented in an operations log and the minor's individual record. Access to visitation and recreation is not to be withheld longer than five calendar days without due cause, which must also be documented. Loss of privileges is also limited to five days, absent a compelling need to extend beyond that point.

Disciplinary action must be commensurate with the nature, frequency and severity of the unacceptable behavior. It is important that the minor understands the circumstances of the behavior and the appropriateness of the discipline for that behavior. Overreaction and excessive sanctions tend to make a bad situation worse. Appropriate judgment and fairness by facility staff are essential. Conversely, discipline must be swift and certain. Minors must know the limits and the consequences for exceeding those limits. Unevenness or inconsistency in the administration of discipline is problematic. An effective and just disciplinary process, fairly and consistently applied, is a critical component in the operation of a safe and secure jail.

Placing minors on the adult disciplinary isolation diet is not permitted. Discipline that is not commensurate with behavior, corporal punishment, deprivation of food, and denial of personal hygiene needs are also prohibited. A minor shall never be placed in a safety cell as a form of discipline.

1120. Education Program for Minors in Jails.

Whenever a minor is held in a Type II or III facility, the facility administrator shall coordinate with the County Department of Education or County Superintendent of Schools to provide education programs as required by Section 48200 of the Education Code.

Guideline: The California Constitution and related statutes require that education be provided to persons under 18 years of age unless they have graduated from high school or achieved an equivalency, such as the GED, or voluntarily withdraw or are excluded in accordance with Education Code provisions (please see **Education Code Section 48200)**. The County Superintendent of Schools is the appropriate authority to determine what access to education programs a minor is entitled to and to determine, in cooperation with the facility administrator, how best to provide required education services consistent with the resources and limitations of the facility.

The best course of action for facility administrators is to contact the County Department of Education or Superintendent of Schools as soon as possible after the minor's admission to the facility to coordinate the continuation of education.

1121. Health Education for Minors in Jails

The health administrator for each jail, in cooperation with the facility administrator and the local health officer, shall develop written policies and procedures to assure that age- and sex-appropriate health education and disease prevention programs are offered to minors.

The education program shall be updated as necessary to address current health priorities and meet the needs of the confined population.

Guideline: One step in the process of preparing minors to assume responsible and healthful lifestyles is to equip them with accurate information on health issues. Despite any appearance of experience and sophistication that minors may convey, they are frequently misinformed about many aspects of personal health and the risk factors for disease.

This regulation requires facility administrators to work with their local health officer in developing a program of regular health education when a juvenile is held in their facility. The local health department should be viewed as a resource to assist in planning a curriculum that is age and culturally appropriate and reflects locally identified health priorities. In addition, the health educator associated with the health department may be able to provide classes in the jail. It may also be useful to contact the administrator of the local juvenile detention facility for guidance in this area.

Facilities can be creative in finding effective and cost-efficient methods for delivering health education services. The State Department of Social Services administers Temporary Aid to Needy Families (TANF) funds, which can be expended for health education programs. Health education can be incorporated into the regular school curriculum, offered in the form of audio or video materials, or provided by some other means that meets the needs of the confined population. For example, some facilities have utilized food services personnel to address the subjects of nutrition and obesity.

Recommended subject areas for inclusion in a health education program include, but are not limited to:

1. chemical dependency, including tobacco use;
2. sexually transmitted diseases;
3. sexuality, including methods of birth control;
4. prenatal and parenting skills;
5. nutrition;
6. exercise;
7. oral hygiene; and
8. mental health and suicide prevention.

Regardless of the method of delivering health education, it is recommended that each facility maintain a record of classes, including the overall plan for what will be offered.

1122. Reproductive Information and Services for Minors in Jails.

The health administrator, in cooperation with the facility administrator, shall develop written policies and procedures to assure that reproductive health services are available to both male and female minors in jails.

Such services shall include but not be limited to those prescribed by Welfare and Institutions Code Sections 220, 221 and 222 and Health and Safety Code Section 123450.

Guideline: Jail administrators must develop policies and procedures to address reproductive services for detained minors. The extent of such services will depend on the length of confinement and eligibility criteria for the facility. In any case, all facilities must meet statutory requirements having to do with access to reproductive services.[2]

Procedures must provide for the continuation of any contraceptive method that a minor has established prior to admission into the jail. There is a high liability to facilities when a pregnancy occurs following release of a minor whose contraceptive method has not been continued during his/her incarceration.

Pregnancy testing should be readily available. When a pregnancy is diagnosed, the full range of options for treatment that are available in the community must be offered. These generally include prenatal care, adoption, and therapeutic abortion services. Special considerations include requirements for parental consent in the case of a requested abortion **(Health and Safety Code, Section 123400)**.

Health care staff should be sensitive to the possibility of child abuse in the case of a diagnosed pregnancy or sexually transmitted disease. While the presence of one of these conditions in a minor is not sufficient to confirm sexual exploitation, additional information may lead to identification of reportable child abuse that calls for certain interventions.

Other facility policies and procedures should take pregnancy issues into account. One example is the safe use of restraint devices during pregnancy. Some facilities prohibit waist or ankle chains during advanced pregnancy, and allow only for the use of handcuffs in front of the body in order to limit the possibility of abdominal injury in the event of a fall. It is also important to provide for appropriate prenatal diets, including the provision of snacks to assure an adequate frequency of food intake **(Section 1462, Therapeutic Diets)**.

In the open community, minors have access to family planning services without a requirement for parental consent. These services should be similarly available to detained minors. Whenever possible, attention should be given to addressing contraceptive concerns sufficiently far in advance to establish a method that will be fully effective at the time of release. **Section 221 WIC** requires all facilities that hold juveniles to offer family planning services to each female minor at least 60 days prior to a scheduled release date.

In addition to offering specific services, jails holding minors should consider inclusion of education concerning reproductive health. Topics to consider include the following: nutritional issues, breast feeding, parenting, sexually transmitted diseases, and personal responsibility in

[2]Welfare and Institutions Code, Sections 220, 221 and 222; and Health and Safety Code, Section 25958.

reproduction. Whenever appropriate, boys should be included in all aspects of reproductive education and programs.

1123. Health Appraisals/Medical Examinations for Minors in Jails.

When a minor is held in a jail, the health administrator, in cooperation with the facility administrator, shall develop policy and procedures to assure that a health appraisal/medical examination:

(a) is received from the sending facility at or prior to the time of transfer; and

(b) is reviewed by designated health care staff at the receiving facility; or,

(c) absent a previous appraisal/examination or receipt of the record, a health appraisal/medical examination, as outlined in *Minimum Standards for Juvenile Facilities,* Section 1432, Health Appraisals/Medical Examinations is completed on the minor within 96 hours of admission.

Guideline: Most minors who are transferred to a jail have been in a juvenile facility for at least 96 hours and have already received their 96-hour health appraisal/medical examination as required by **Section 1432(c)** of the ***Minimum Standards for Juvenile Facilities***. This regulation requires jail administrators and health administrators to ensure that a minor is being transferred with the appropriate medical information or, in the event this does not occur, to ensure that a health appraisal/medical examination is completed.

The health appraisal/medical examination is a systematic approach for evaluating the health care needs of minors, regardless of whether they have requested attention. The regulation calls for completion of the evaluation within 96 hours of arrival at the facility. The timeframe is <u>not</u> modified due to weekends, holidays, or other factors.

The health appraisal/medical examination must be conducted in privacy, limited only by significant security considerations. At a minimum, the following must be included:

1. Health history, including review of the intake health screening, history of illnesses, operations, injuries, medications, allergies, immunizations, systems review, exposure to communicable diseases, family health history, habits (e.g., tobacco, alcohol and other drugs), developmental history (e.g., school, home, and peer relations), sexual activity, contraceptive methods, reproductive history, physical and sexual abuse, neglect, history of mental illness, self-injury and suicidal ideation.

2. Physical examination, including temperature, height, weight, pulse, blood pressure, appearance, gait, head and neck, a preliminary dental and visual acuity screening, gross hearing test, lymph nodes, chest and cardiovascular, breasts, abdomen, genital (pelvic and rectal examination with verbal consent, if clinically indicated), musculoskeletal, and neurologic.

3. Laboratory and diagnostic testing, including tuberculosis testing, pap smears and testing for sexually transmitted diseases for sexually active minors. Other testing should be provided as clinically indicated, including pregnancy testing, urinalysis, hemoglobin or hematocrit.

4. Immunizations shall be verified and, within two weeks of the health appraisal/medical examination, a program shall be started to bring the minor's immunizations up-to-date in accordance with current public health guidelines.

For further discussion of health appraisals/medical examinations, please refer to **Section 1432, Health Appraisals/Medical Examinations** in the ***Minimum Standards for Juvenile Facilities*.**

1124. Prostheses and Orthopedic Devices for Minors in Jails.

The health administrator, in cooperation with the facility administrator and the responsible physician shall develop written policy and procedures regarding the provision, retention and removal of medical and dental prostheses, including eyeglasses and hearing aids for minors in jail.

(a) Prostheses shall be provided when the health of the minor in the jail would otherwise be adversely affected, as determined by the responsible physician.

(b) Procedures for retention and removal of prostheses shall comply with the requirements of Penal Code Section 2656.

Guideline: This regulation requires that prostheses be provided if the treating physician determines that the health of the minor would otherwise be adversely affected. The regulation establishes greater requirements for minors in jails than for adults. It also requires that **Penal Code, Section 2656** be followed with respect to retention and removal of prostheses. Prostheses may not be removed unless there is probable cause to believe that they present risk of bodily harm to someone in the facility or threaten facility security. They must be returned to the minor when the risk no longer exists.

Prostheses are artificial devices to replace missing body parts or to compensate for defective bodily function. Prostheses are distinguished from slings, crutches, or other similar assistive devices. Care should be taken so as not to place minors in a situation where prostheses may be used as weapons. Inappropriate removal of some devices (e.g., artificial limbs, etc.) can result in injury to the minor.

Penal Code, Section 2656 relates specifically to adult inmates. While there is no comparable statute specifically for juveniles, those requirements are incorporated by regulation (with clarifying language concerning dental prostheses, eyeglasses and hearing aids) because the same principles are applicable to juveniles and likely to be upheld in any challenge. The law is very specific. It states that if the facility manager:

> "…has probable cause to believe possession of such orthopedic or prosthetic appliance constitutes an immediate risk of bodily harm to any person in the facility or threatens the security of the facility, such appliance may be removed.
>
> If such appliance is removed, the prisoner shall be deprived of such appliance only during such time as the facts which constitute probable cause for its removal continue to exist; if such facts cease to exist, then the person in charge of the facility shall return such appliance to the prisoner.
>
> When such appliance is removed, the prisoner shall be examined by a physician within 24 hours after such removal."

Facilities cannot deprive minors of these devices without a security or safety reason. Policies and procedures should discuss the security parameters that might constitute cause for withholding such an appliance, for how long, and with what recourse. How individuals with artificial limbs and other prostheses are to be accommodated in the facility should also be addressed.

This regulation includes dental prostheses, eyeglasses and hearing aids among the types of prostheses that must be provided to the minor if prescribed by the treating physician. It should be noted that "eyeglasses" typically include contact lenses. It is anticipated that policies related to provision of prostheses would parallel what would be done under a similar circumstance in the community and also consider the minor's length of stay in a facility. Minors who are expected to remain in the facility for several months may reasonably have different requirements than minors who will be released back to the community in a matter of days.

1125. Psychotropic Medications for Minors in Jail.

The health administrator/responsible physician, in cooperation with the mental health director and the facility administrator, shall develop written policies and procedures governing the use of voluntary and involuntary psychotropic medications for minors.

- **(a) These policies and procedures shall include, but not be limited to:**
  - **(1) protocols for physicians' written and verbal orders for psychotropic medications in dosages appropriate to the minor's need;**
  - **(2) requirements that verbal orders be entered in the minor's health record and signed by a physician within 72 hours;**
  - **(3) the length of time voluntary and involuntary medications may be ordered and administered before re-evaluation by a physician;**
  - **(4) provision that minors who are on psychotropic medications prescribed in the community are continued on their medications pending re-evaluation and further determination by a physician;**
  - **(5) provision that the necessity for continuation on psychotropic medications is addressed in pre-release planning and prior to transfer to another facility or program; and,**
  - **(6) provision for regular clinical/administrative review of utilization patterns for all psychotropic medications, including every emergency situation.**
- **(b) Psychotropic medications shall not be administered to a minor absent an emergency unless informed consent has been given by the parent/guardian or the court.**
  - **(1) Minors shall be informed of the expected benefits, potential side effects and alternatives to psychotropic medications.**
  - **(2) Absent an emergency, minors may refuse treatment.**
- **(c) Minors found by a physician to be a danger to themselves or others by reason of a mental disorder may be involuntarily given psychotropic medication immediately necessary for the preservation of life or the prevention of serious bodily harm, and when there is insufficient time to obtain consent from the parent, guardian, or court before the threatened harm would occur. It is not necessary for harm to take place or become unavoidable prior to initiating treatment.**
- **(d) Administration of psychotropic medication is not allowed for disciplinary reasons.**

Guideline: The responsible physician, in cooperation with the mental health director and facility administrator, must develop policy and procedures governing the use of psychotropic medications for minors in jails. The involvement of the mental health director is essential for obtaining specialized expertise during policy development. Involving all key administrators helps to assure that there is consensus among clinical departments and facility administration, all of whom are involved in implementation.

A wide variety of drugs are now considered "psychotropic medications." The defining feature is the purpose for which the medication is given. For this standard, psychotropic medications are those drugs whose purpose is to have an effect on the central nervous system to impact behavior or psychiatric symptoms. These drugs include anti-psychotic, antidepressant, lithium carbonate, anxiolytic drugs, and anti-convulsants or any other medication when used to treat a psychiatric condition.

Because child and adolescent psychiatry are specialized areas of clinical practice, and because poor prescribing patterns can result in adverse physical and social consequences for minors, it is important to utilize clinical staff that adheres to recognized and accepted guidelines for use of psychotropic medications. Examples include those published by the American Academy of Pediatrics or the American Academy of Child and Adolescent Psychiatry. While a physician should order psychotropic medications, that physician may not necessarily be specialized in psychiatry. However, at a minimum, the facility should utilize a physician who is knowledgeable in the diagnosis and treatment of mental disorders, with additional understanding of their applications in child and adolescent patients. In general, psychotropic medications should be used only for those conditions known to be responsive to such treatment. These medications are never to be used as punishment or for simple restraint of undesired behavior.

Voluntary treatment of minors requires the informed consent of the parent (or entity with equivalent authority). Since the minor also has the right of refusal of any non-emergency care, he/she must also be agreeable to treatment. When minors in jails are prescribed a psychotropic medication, they shall be advised of the potential benefits, potential side effects, and alternatives.

Consistent with the philosophy described under ***Minimum Standards for Juvenile Facilities*, Section 1413, Individualized Treatment Plans**, the mere fact that minors take psychotropic medications should not automatically exclude them from participation in facility programs. Such minors should be allowed to participate unless the physician orders a restriction based on specific rationale.

Only in the case of an emergency can a minor be treated with psychotropic drugs on an involuntary basis. Such situations are limited to those in which there is an urgent threat of serious bodily harm or death and it is not practical to seek consent. Because the administration of involuntary medications is a situation fraught with risks of overuse and/or adverse physical effects, this approach should be carefully monitored and reviewed for appropriateness. Consideration should be given to transfer of minors in need of such extreme measures to a licensed treatment facility, as discussed above under ***Minimum Standards for Juvenile Facilities*, Section 1437, Mental Health Service and Transfer to a Treatment Facility**. Long acting "depot" formulations of psychotropic medications are not considered appropriate for emergency treatment. Minors should be observed carefully following administration of a psychotropic medication to monitor changes in behavior and respond to any unanticipated reactions to the medication.

When a minor who takes a psychotropic medication is transferred to another juvenile facility, it is important to assure that arrangements are made for timely continuation of the medication. All too often, lapses in communication during the transfer process result in the discontinuation of the medication and the subsequent decompensation of the minor's condition. This may lead to disruptive behavior that is misinterpreted, with disciplinary action rather than treatment, being applied.

In addition to the considerations above, policy and procedures should address timeframes for re-evaluating patients prior to renewal of medications, training staff on the adverse effects of psychotropic medications, and procedures for arranging for discharge medications and follow-up at the time of release.

ARTICLE 9. MINORS IN CUSTODY IN A LAW ENFORCEMENT FACILITY

1140. Purpose

The purpose of this article is to establish minimum standards for law enforcement facilities in which minors are securely detained or held in non-secure custody.

Unless otherwise specified in statute or these regulations, minors lawfully held in local adult detention facilities shall be subject to the regulations and statutes governing those facilities found in Title 15, Division 1, Chapter 1, Subchapter 4, Section 1000 et seq. and Title 24, Part 1, Section 13-102, and Part 2, Section 470A, California Code of Regulations.

Guideline: This regulation specifies that minors held in temporary custody in a law enforcement facility/lockup are subject to all of the regulations applicable to such facilities contained in Title 15, California Code of Regulations, *Minimum Standards for Local Detention Facilities,* unless otherwise specified. For the purposes of this section, a law enforcement facility (station, sub-station, detention facility) that contains a secure room or enclosure used primarily for the temporary detention of adult arrestees is a "lockup." The "secure room or enclosure" may consist of a pre or post 1978 local detention facility (jail) or a lockable interview room. The regulations contained in **Article 9, Minors in Temporary Holding Facilities** are to be complied with *in addition* to those regulations found in Articles 1-7. Article 9 relates to minors who are accused of violating a law defined as a crime and who have been taken into temporary custody by law enforcement officers pursuant to **Section 602, Welfare and Institutions Code (WIC)**. **Section 207.1(d) WIC** sets the criteria that must be met if a minor is to be held in temporary custody in a law enforcement facility that contains a lockup.

1141. Minors Arrested for Law Violations.

Any minor taken into temporary custody by a peace officer, on the basis that they are a person described by Section 602 of the Welfare and Institutions Code, may be held in secure detention or non-secure custody within a law enforcement facility that contains a lockup for adults provided that the standards set forth in these regulations are met.

Guideline: Section 207.1(d) WIC sets the criteria that must be met if a minor is to be held in temporary custody in a law enforcement facility that contains a lockup. This section goes on to provide that such minors may only be held in these facilities if all the conditions contained in

these regulations are met. Complying with these regulations will provide assurance to the law enforcement staff that they are meeting applicable federal and state statutes. As previously mentioned, these regulations apply only to those minors who are in temporary custody for a criminal offense under **602 WIC**.

1142. Written Policies and Procedures.

The facility administrator shall develop written policies and procedures concerning minors being held in temporary custody which shall address:

(a) suicide risk and prevention;
(b) use of restraints;
(c) emergency medical assistance and services; and,
(d) prohibiting use of discipline.

Guideline: A policy and procedures manual expresses the management philosophy of an agency as well as the approved operation of facility practices. Not only does the manual specify what gets accomplished and how, it also explains why. It is, as much as anything else, the statement of practice and accountability because it describes the basic elements of each step in operating the facility.

Title 15, Section 1029 describes the minimum elements that must be included in the policy and procedures manual required for all types of adult detention facilities. Other applicable elements may be found throughout the remainder of **Titles 15 and 24**. At a minimum, the same policy and procedures manual needs to address subsections (a) through (d), as well as remaining applicable sections found in this article. The facility administrator should consider a separate indexed section to the manual which addressees "minor specific issues," including the requirements in this regulation. For further discussion on these subjects, please refer to the guidelines for the corresponding regulations: **Section 1029, Policy and Procedures Manual**; **Section 1219, Suicide Prevention Program**; **Section 1058, Use of Restraints**; **Section 1208, Access to Treatment**; and **Section 1081, Plan for Inmate Discipline**.

Suicide is a leading cause of death among minors. Minors who have been arrested for a criminal offense are particularly at risk. Consequently, the facility administrator needs to develop policies and procedures for educating staff in recognizing symptoms or signs that a minor may exhibit indicating that he/she is an immediate suicide risk. Once identified, these procedures should clearly guide staff in assuring the well being of the minor while in custody. Additionally, this information needs to be provided to whoever receives the custody of the minor, whether it is a parent, guardian or juvenile detention facility. Finally, "universal precautions" with respect to suicide prevention should be used for all minors who are in temporary custody.

The use of restraints is a complex issue, fraught with liability to the agency and posing potential injury for the minor. There is a distinction between the use of force and the use of restraints. The use of force is an immediate means of overcoming resistance to control the threat of imminent harm to self or others while the use of restraints is a more sustained, prolonged intervention. Force is a custody/law enforcement function; application of restraints for more prolonged periods of time requires greater emphasis on medical concerns and involvement of medical staff. Handcuffing a minor, whether behind his/her back or to a fixed object such as a bench or chair, is a force issue. Placing a minor in a restraint chair, leg wrap, four point restraints or 'hog-tying' (which is strongly discouraged and prohibited in juvenile regulations-see

Minimum Standards for Juvenile Facilities **Section 1358, Use of Physical Restraints**) falls under use of restraints.

Placing a minor in restraints is a serious issue that should only occur under the most extreme of circumstances. If an agency feels that this may ever happen, protocols for management clearance and medical/mental health involvement need to occur as described in **Section 1058, Use of Restraints**. Additionally, the guidelines for **Section 1058** should also be consulted prior to developing the agency's policies and procedures. At a minimum, if an agency elects never to use restraints, there needs to be some discussion on how a mentally disordered minor who is exhibiting out of control behavior would be handled. Usually, agencies state that such a minor would be immediately transferred to the appropriate juvenile facility or hospital.

Emergency medical care also needs to be addressed in the agency's manual; specifically, where this care will occur, how the consent will be obtained, and how the minor will be handled once care is received.

Appropriate discipline for minors and adult inmates who fail to follow facility rules is accepted practice in long-term facilities; however, it is entirely inappropriate for minors who are in temporary custody for six hours or less. Therefore, the policy and procedures manual needs to include a provision that specifically prohibits the use of discipline for minors in the facility.

1143. Care of Minors in Temporary Custody.

(a) The following shall be made available to all minors held in temporary custody:
- **(1) access to toilets and washing facilities;**
- **(2) one snack upon request during term of temporary custody if the minor has not eaten within the past four (4) hours or is otherwise in need of nourishment;**
- **(3) access to drinking water; and,**
- **(4) privacy during consultation with family, guardian, and/or lawyer.**

(b) In addition to the above, minors placed in locked rooms shall be:
- **(1) provided blankets and clothing, as necessary, to assure the comfort of the minor; and,**
- **(2) permitted to retain and wear his or her personal clothing unless the clothing is inadequate, presents a health or safety problem, or is required to be utilized as evidence of an offense.**

Guideline: There are access issues that equally apply to both adults and minors who are detained in law enforcement facilities. These include access to toilet and washing facilities, drinking water, adequate clothing and privacy during attorney consultations. Taking care of the basic needs of arrestees in the care and custody of law enforcement has been found by the courts to be an affirmative obligation.

In addition to these baseline responsibilities, simply by virtue of their age, minors require additional attention. Young people burn vast quantities of calories; recognizing this, and attempting to provide a practical and realistic approach for dealing with these increased nutritional needs, this standard requires that a snack be provided to the minor upon request, and only once during the term of the temporary custody. The snack should be nutritious, but otherwise the standard does not mandate a specific food type. Many agencies elect to exceed this minimum standard by providing a snack to every minor who comes into custody for more

than four hours. It is a good correctional practice to uniformly provide this snack at some point during a lengthy custody (i.e., four hours or more). If the agency elects to adopt this practice, it still must provide the snack only once and "upon request" if the minor has not eaten within the past four hours or is otherwise in need of nourishment.

1144. Contact Between Minors and Adult Prisoners.

The facility administrator shall establish policies and procedures which ensure that contact between detained minors and adults confined in the facility shall be restricted as follows:

(a) verbal, non-verbal, or visual communication between minors and adult prisoners shall not be allowed;

(b) situations in which a minor and an adult prisoner may be in the same room, area, or corridor are limited to:

(1) booking;

(2) medical screening;

(3) inmate workers present while performing work necessary for the operation of the facility, such as meal service and janitorial services; and,

(4) movement of prisoners in custody within the facility.

When an adult prisoner, including an inmate worker, is present, facility staff trained in the supervision of inmates shall maintain a constant side by side presence with either the minor or the adult to assure there are no communications between the minor and the adult.

Guideline: The basis of the prohibition on contact between adults and minors is described in **Section 208(a) (WIC)**. This section deems it unlawful to allow any person under 18 years of age to come into or remain in contact with adults in any institution where adults are confined.

"Contact" is defined in **Section 1006** as, "communications, whether visual or verbal, or immediate physical presence." Hand signs, written messages and bodily gestures are examples of non-verbal or visual communication. Placing a minor in the same cell with an adult, even if there were no communications, is prohibited. It is important to note that a minor overhearing an adult inmate speaking, such as when an adult inmate calls for correctional staff, is not prohibited. This is considered "ambient noise," not communication.

Section (b) of this regulation specifies those occasions where a minor who is lawfully detained in a law enforcement facility may be in the "incidental" physical presence of an adult prisoner, and still be in compliance with statutes and these regulations. In all occasions where this incidental presence occurs, facility staff trained in the supervision of inmates shall maintain constant side-by-side presence with either the minor or the adult to prevent communications between either person. Most of the situations listed are self-explanatory. "Booking" is a generic term used to describe the intake process for an individual who has been recently arrested or transferred into a detention facility.

1145. Decision on Secure Detention.

A minor who is taken into temporary custody by a peace officer on the basis that he or she is a person described by Section 602 of the Welfare and Institutions Code may be held in secure detention in a law enforcement facility that contains a lockup for adults if the

minor is 14 years of age or older and if, in the reasonable belief of the peace officer, the minor presents a serious security risk of harm to self or others, as long as all other conditions of secure detention set forth in these standards are met. Any minor in temporary custody who is less than 14 years of age, or who does not in the reasonable belief of the peace officer present a serious security risk of harm to self or others, shall not be placed in secure detention, but may be kept in non-secure custody in the facility as long as all other conditions of non-secure custody set forth in these standards are met.

In making the determination whether the minor presents a serious security risk of harm to self or others, the officer may take into account the following factors:

(a) age, maturity, and delinquent history of the minor;
(b) severity of the offense(s) for which the minor was taken into custody;
(c) minor's behavior, including the degree to which the minor appears to be cooperative or non-cooperative;
(d) the availability of staff to provide adequate supervision or protection of the minor; and,
(e) the age, type, and number of other individuals who are detained in the facility.

Guideline: Section 207.1 (d) WIC specifies that, in order for a minor to be placed in secure detention (i.e., a locked room/cell or handcuffed to a fixed object), the minor must be at least 14 years of age and the peace officer must have a reasonable belief that the minor presents a serious security risk of harm to self or others. While this section outlines criteria that officers may use while making the decision for secure detention, ultimately, the officer must decide whether a minor presents a valid security risk and needs to be securely detained. When secure detention occurs, circumstances must be documented which justify this decision.

Most of the factors officers may take into consideration in making their decision whether to securely detain a minor are self-explanatory. **Subsection (a)** allows age, maturity and delinquency history to influence the decision on where to detain a minor in a law enforcement facility.

Subsection (b) allows the severity of the offense to influence the decision for secure detention, while **subsection (c)** discusses the behavior of the minor, including his/her cooperation with law enforcement personnel. Using some of the criteria above, a 16-year-old charged with homicide who is displaying uncooperative behavior may be a candidate for secure detention, especially if the physical plant of the facility limits options.

Subsection (d) states that the officer may consider the availability of staff to provide adequate supervision or protection of the minor. This section is not intended to allow agencies to securely detain all minors in temporary custody based on under-staffing. Rather, this section is intended to address those rare instances when there is simply not enough staff to provide the constant personal visual supervision required for minors held in non-secure custody without compromising the safety of the minor or staff. This subsection would only apply to those police agencies with a very limited personnel deployment, especially during non-business hours.

Subsection (e) is intended to address situations when the ages, type, and number of individuals detained in the facility cause a portion of the building that is normally used for the non-secure detention of minors to be used for the handling or processing of adult prisoners. In these situations, minors who are 14 years of age or older may be placed in a cell to ensure their safety and to eliminate contact with adult prisoners. Again, this section is not intended to allow

agencies to securely detain all minors in temporary custody based on inadequate facilities, but is intended to address those rare instances when minors must be placed in a holding cell because of other activities occurring when they are in custody.

Staff should be empowered to make adequate decisions regarding the type of detention for a minor based upon the above criteria.

1146. Conditions of Secure Detention.

While in secure detention, minors may be locked in a room or other secure enclosure, secured to a cuffing rail, or otherwise reasonably restrained as necessary to prevent escape and protect the minor and others from harm.

Guideline: This section defines "secure detention" for minors in temporary custody. Minors who are held in a locked room, cell or other enclosure are securely detained. Minors who are handcuffed to a fixed object such as a bench, chair or table are likewise securely detained. On the other hand, minors who are held in an unlocked room yet are handcuffed to themselves are not securely detained.

Whenever a minor is placed into secure detention, **Section 207.1 (d)(1)(C) WIC** requires that the officer shall inform the minor of:

(1) the purpose of the secure detention,
(2) the length of time the secure detention is expected to last; and
(3) that he/she will not be held in secure detention longer than six hours.

Corrections Standards Authority staff suggests clearly outlining this requirement in the Policy and Procedures Manual previously discussed (**Section 1142**). Additionally, the agency may consider using a standardized form that includes the required language and documents the advisement. Please see the CSA website: www.csa.ca.gov for an example of this form.

1147. Supervision of Minors Held Inside a Locked Enclosure.

(a) Minors shall receive adequate supervision which, at a minimum, includes:
(1) constant auditory access to staff by the minor; and,
(2) unscheduled safety checks of the minor by staff of the law enforcement facility, no less than every 30 minutes, which shall be documented.
(b) Males and females shall not be placed in the same locked room unless under constant direct visual observation by staff of the law enforcement facility.

Guideline: This section applies to minors who are held in a locked cell, room or other enclosure, and describes the measures that law enforcement must take to ensure the safety of that minor.

Minors who are taken into custody by law enforcement pose a risk of self-destructive behavior. Recognizing this, constant auditory access to staff by the minor must be maintained. This access may be provided either by direct voice contact (meaning that staff remains in earshot of the minor) or use of a monitor or voice actuated "audio monitoring" device. In any event, the minor must be able to immediately contact and alert staff at any time while in secure detention.

Staff must also conduct safety checks of the minor no less than every 30 minutes. Again, staff shall not rely solely on any artificial means such as a video and/or audio device to make this check. These devices may supplement, but shall never replace, safety checks.

Documentation of safety checks is critical to protecting the facility from liability. To ensure credibility, documentation of safety checks should reflect the exact time the check was made, should be made with an ink pen, and should be periodically inspected and signed off by the watch commander or supervisor. Finally, the document should be maintained like any other important record by the law enforcement agency. In addition to the documentation discussed in this regulation, **Section 207.1 (d)(1)(F) WIC** requires that a log be maintained showing the offense and reasons for the decision to place the minor in secure detention, as well as the length of time the minor was securely detained.

Male and female minors may not be locked in the same holding cell, room or other enclosure, unless staff provides constant direct visual observation.

1148. Supervision of Minors in Secure Detention Outside of a Locked Enclosure.

Minors held in secure detention outside of a locked enclosure shall not be secured to a stationary object for more than 60 minutes unless no other locked enclosure is available. A staff person from the facility shall be present at all times to assure the minor's safety while secured to a stationary object. Securing minors to a stationary object for longer than 60 minutes, and every 30 minutes thereafter, shall be approved by a supervisor. The decision for securing a minor to a stationary object for longer than 60 minutes, and every 30 minutes thereafter shall be based upon the best interests of the minor and shall be documented.

Guideline: This section refers to minors who are held in secure detention while handcuffed to a fixed object such as a bench, chair or table.

Minors who require secure detention should be placed in a locked enclosure. When this is not possible due to physical plant restrictions or other exigent circumstances, the minor may be secured to a fixed object. During the entire time the minor is secured to a fixed object, he/she is considered in secure detention, and staff must be continuously present to ensure the minor's safety and prevent contact with adult inmates. Generally, this type of secure detention should not last beyond 60 minutes. When this type of secure detention must extend beyond the initial 60 minutes due to exigent circumstances, there must be a second level of review after the first 60 minutes and every 30 minutes thereafter that the minor is so detained. This review shall involve the approval of a supervisor and documentation of the reason(s) that the minor needs continued secure detention outside of a locked enclosure longer than 60 minutes. A supervisor should also certify that a locked enclosure is not available or is not practical, and document the reasons for continued secure detention outside of a locked enclosure.

Although a locked enclosure may be available for secure detention, there may be situations where secure detention outside of a locked enclosure may be more appropriate. Staff should be extremely sensitive to this type of secure detention and seek supervisory approval prior to this type of placement. Justification for this type of secure detention should be carefully documented. As always, when a minor is restrained, staff should be familiar with signs and symptoms of distress that a minor may exhibit while immobilized.

Agencies also need to address the issue of documentation and notification requirements; see the guidelines for **Section 1147, Supervision of Minors Held in a Locked Enclosure**

1149. Criteria for Non-secure Custody.

Minors held in temporary custody, who do not meet the criteria for secure detention as specified in Section 207.1(d) of the Welfare and Institutions Code, may be held in non-secure custody if a brief period of time is needed to investigate the case, facilitate release of the minor to a parent or guardian, or arrange for transfer of the minor to an appropriate juvenile facility.

Guideline: This section addresses those minors who are held in temporary custody by a law enforcement agency for committing a crime **(WIC, Section 602)** but do not fit the criteria for secure detention. The brief time period referred to in this standard is no more than **six hours** except under extremely limited circumstances such as inclement weather, natural disasters, or other "acts of god" which result in the unavailability of transportation as outlined in **WIC, Section 207.1 (f)(1)(A)**. Another limited exception to the "six-hour rule" is for minors taken into custody on Catalina Island. The six-hour limit is mandated by state statute.

1150. Supervision of Minors in Non-secure Custody.

Minors held in non-secure custody shall receive constant direct visual observation by staff of the law enforcement facility. Entry and release times shall be documented and made available for review. Monitoring a minor using audio, video, or other electronic devices shall never replace constant direct visual observation.

Guideline: This section refers to how minors in non-secure custody will be supervised while in a law enforcement facility. It is preferable to supervise the minor in the same room, although there is a limited amount of latitude allowed with this standard. For example, law enforcement staff seated outside an interview room can maintain direct visual observation of the minor seated inside the room by continuously observing the minor from behind a window or through an open door. The key is that staff must *directly and constantly observe* the minor during the entire non-secure custody period. Video or audio monitoring may *supplement*, but never replace, constant direct visual supervision.

While being non-securely detained, a minor's movements are much less restricted than if he/she were securely detained in a locked enclosure or handcuffed to a stationary object. Continuous direct visual observation allows staff to directly observe any unusual or self-destructive behavior that a minor may exhibit while being detained, while also ensuring that the minor remains in custody until they may be safely released to a parent or juvenile hall.

When considering the difference between secure and non-secure detention, it is helpful to think about the layout of the area where the minor is being held. If the minor could reasonably leave an area and exit the facility, the minor is most likely in non-secure detention. Even if a minor is not locked in a cell or room, if the minor could not reasonably exit the facility (because of a locked perimeter), they may be in secure detention. Additionally, minors may be brought into a law enforcement facility handcuffed and remain in non-secure detention, but once handcuffs are

attached to a stationary object, they are in secure detention (see **Section 1148, Supervision of Minors in Secure Detention Outside of a Locked Enclosure)**.

1151. Intoxicated and Substance Abusing Minors in a Lockup.

Any minor who displays outward signs of intoxication, or who is known or suspected to have ingested any substance that could result in a medical emergency, shall be medically cleared prior to reception at a facility.

Supervision of minors who have been cleared to enter the facility shall include safety checks no less than every 15 minutes until resolution of the intoxicated state. These safety checks shall be documented, with actual time of occurrence recorded.

Guideline: This regulation is intended to prevent in-custody deaths of minors due to alcohol poisoning or drug overdoses. The regulation specifically requires that a medical clearance be obtained before bringing a minor who appears to be under the influence of, or who is believed to have ingested, alcohol or other intoxicating substances, into a police facility.

Minors who are arrested while intoxicated, or who have ingested an intoxicating substance, are at risk for serious medical consequences, including death. Examples include acute alcohol poisoning, seizures and cardiac complications from cocaine, and markedly disordered behavior related to amphetamines or hallucinogenic drugs.

The regulation requires that a medical clearance be obtained prior to acceptance into a facility whenever the minor displays outward signs of intoxication or is known or suspected to have ingested any substance that could result in a medical emergency. Important examples of the latter include a history of sequestering balloons containing drugs in a body cavity, or minors who may have ingested large quantities of drugs immediately prior to arrest in order to eliminate evidence. These minors may initially appear normal, but their condition can rapidly deteriorate.

The determination of the level of intoxication and other substance ingestion concerns will need to be made by the arresting officer *before* bringing the minor to a police facility. Law enforcement officers have wide and substantial experience recognizing the symptoms of intoxication and are expected to differentiate between a minor who is at risk and needs this medical clearance, and one who has ingested a small amount of an intoxicant. Clearly, minors who are intoxicated to the extent that they are unable to care for themselves would need a medical clearance; however, other minors who have not reached this level may also require a clearance. Consideration must be given to the length of time since the minors were known or suspected to have ingested the substance.

When in doubt, the officer should obtain a clearance, particularly if the minor is being transported to a facility without medical staff available on-site. The minor's presenting symptoms, not the amount of alcohol consumption, should guide the decision for a clearance. Examples of symptoms pointing to a medical clearance include, but are not limited to:

1. drowsiness and/or confusion;
2. body tremors or shakes;
3. a described history of diabetes or an identification document indicating diabetes;
4. apparent injuries;
5. the minor does not know who or where he/she is and/or the date, time;

6. eyes involuntarily shift back and forth rapidly (horizontal gaze nystagmus);
7. eyes are bloodshot, watery or glassy;
8. poor coordination, staggering and/or swaying;
9. belligerent/combative and/or other self-destructive behaviors are observed;
10. speech is incoherent or slurred;
11. strong odor of alcohol or other intoxicant;
12. vomiting; and/or
13. breathing/respiration is altered.

A medical clearance will most likely be obtained through a local hospital emergency department. While some emergency departments may choose to observe the minor until he/she is no longer intoxicated, more often than not, the department will discharge the minor to the custody of the arresting officer. When this occurs, a written medical clearance is essential for the detention facility's liability protection, even though it should be recognized that medical clearance is not an absolute guarantee that problems will not occur. Medical facilities that provide clearance examinations should be familiar with the extent of on-site health services at a police facility in order to best determine when intoxicated minors can be safely monitored there.

Once accepted into the facility, a safe setting for the minor to recover under observation must be determined. Adult facilities (i.e., lockups) are required to hold minors in a "sobering cell" if, after getting the medical clearance, their level of intoxication is still at a point where they are a danger to themselves or others due to their state of intoxication. Policy and procedures must designate the housing options for these minors, including any protective locations for observation. Documented personal observation by staff must be conducted at least every fifteen (15) minutes. If the minor remains in non-secure custody and constant direct observation is conducted, documented observations at 15-minute intervals must still be made. Many facilities opt for more frequent observation, especially during the first few hours. When it is clear that recovery is progressing, the intensity of observation may relax slightly, but shall remain at 15-minute intervals until the minor is determined to no longer be intoxicated. This should also be documented. Although camera monitoring may be a useful adjunct, it cannot be used as a substitute for direct observation, through which ease of breathing, level of consciousness, and other critically important criteria can be assessed.

Policy and procedures must address when and how medical referral and treatment will be rendered to minors whose state of intoxication or withdrawal requires more than observation. Examples include symptomatic heroin withdrawal, with special consideration if the minor is pregnant; amphetamine-induced psychosis; stimulant drug intoxication with neurological or cardiovascular complications; and alcohol withdrawal syndrome.

ARTICLE 10. MINORS IN COURT HOLDING FACILITIES

1160. Purpose.

The purpose of this article is to establish minimum standards for court holding facilities in which minors are held pending appearance in juvenile or criminal court.

Unless otherwise specified in statute or these regulations, minors held in court holding facilities shall be subject to the regulations and statutes governing those facilities found in Title 15, Division 1, Chapter 1, Subchapter 4, Section 1000 et seq. and Title 24, Part I, Section 13-102, and Part 2, Section 470A, California Code of Regulations.

Guideline: This regulation specifies that minors held in temporary custody in court holding facilities are subject to all of the regulations applicable to such facilities as contained in Title 15, California Code of Regulations, ***Minimum Standards for Local Detention Facilities***, unless otherwise specified. The regulations contained in **Article 10, Minors in Court Holding Facilities** are to be complied with *in addition* to those regulations found in Articles 1-7.

1161. Conditions of Detention.

Court holding facilities shall be designed to provide the following:

(a) Separation of minors from adults in accordance with Section 208 of the Welfare and Institutions Code.

(b) Segregation of minors in accordance with an established classification plan.

(c) Secure non-public access, movement within and egress. If the same entrance/exit is used by both minors and adults, movements shall be scheduled in such a manner that there is no opportunity for contact.

An existing court holding facility built in accordance with construction standards at the time of construction shall be considered as being in compliance with this article unless the condition of the structure is determined by the appropriate authority to be dangerous to life, health, or welfare of minors. Upon notification of noncompliance with this section, the facility administrator shall develop and submit a plan for corrective action to the Board of Corrections within 90 days.

Guideline: The **JJDPA** and **WIC Section 208** make it unlawful for a minor to come or remain in contact with adult prisoners in any facility where adults are confined. Such restrictions would apply to a court holding facility administered by a sheriff's or probation department, marshal's office or other public or private agency having responsibility for such facilities.

"Contact" is defined in **Section 1006, Definitions** as "communications, whether visual or verbal, or immediate physical presence." Hand signs, written messages and bodily gestures are examples of non-verbal or visual communication. Placing a minor directly next to an adult, even if there were no communications, is also prohibited. It is important to note that a minor overhearing an adult prisoner speaking, such as when an inmate calls for a correctional staff, is not prohibited. This is considered "ambient noise" not communications.

Care should be taken to provide for segregation of minors in accordance with an established classification plan. The nature and scope of a classification plan appropriate for a court holding facility is described in **Section 1163** of this article. Minors who are co-offenders, from rival gangs, have physical or mental limitations, have a potential for violence, need protective custody, or may otherwise present some special need or concern should be housed and supervised in such a manner as to minimize risk of harm. The effective exchange of critical information, as described in **Section 1163, Classification,** would provide the knowledge needed to make appropriate arrangements and take precautions commensurate with the availability of resources and limitations of the facility.

Access to and movement within court holding facilities that detain both minors and adults should be managed to avoid using ingress/egress and passageways for both populations at the same time. The facility administrator(s) should develop and implement precautions that would prevent contact between minors and adults from occurring. In a situation where contact is possible, both

the minor(s) and adult(s) should be accompanied by and be under direct supervision of custody staff.

1162. Supervision of Minors.

A sufficient number of personnel shall be employed in each facility to permit unscheduled safety checks of all minors at least twice every 30 minutes, and to ensure the implementation and operation of the activities required by these regulations. There shall be a written plan that includes the documentation of safety checks.

Guideline: There is no established ratio of staff to minors that must be maintained in a court holding facility. At a minimum, however, at least one staff must be on duty when a minor is held, and male and female staff shall be available whenever both male and female minors are detained. Staffing requirements should be determined by the facility design and the number of minors being held, as well as any special needs of minors.

This regulation requires unscheduled safety checks of minors as least twice every 30 minutes. Audio and visual surveillance may be utilized to supplement such supervision as an added safety measure and precaution, but cannot replace safety checks by custody staff. Staff must actually see each minor detained to the extent that a judgment can be made regarding the minor's general condition, welfare, behavior and demeanor, and staff must be able to respond to any situation warranting intervention and take appropriate action. Additionally, it is not sound correctional practice to rely on staff with multiple responsibilities, such as dispatchers supervising minors in court holding facilities, conducting safety checks, and responding to emergency situations.

Policy and procedures requiring the documentation of safety checks is essential. This regulation requires that safety checks of minors occur at least twice every 30 minutes, occurring at irregular intervals. This is more frequent than the adult standard and is based on the propensity of minors to display immature and volatile behavior, as well as their increased risk for suicide. Actual times and notations by staff of safety checks should be handwritten or entered into a computerized system. In the event of an investigation or litigation, it is important to remember that an undocumented or improperly documented safety check is usually deemed not to have occurred.

1163. Classification.

The administrator of a court holding facility shall establish and implement a written plan designed to provide for the safety of staff and minors held at the facility. The plan shall include receiving and transmitting of information regarding minors who represent a risk or hazard to self or others while confined at the facility, and the segregation of such minors to the extent possible within the limits of the court holding facility, and for the separation of minors from any adult inmate(s) as required by Section 208 of the Welfare and Institutions Code.

Guideline: The purpose of classification in a court holding facility is to ensure that important information about minors accompanies them so that staff can receive, detain and return minors safely. Court holding facilities do not require a comprehensive classification system; rather, a plan is required for transmitting information to a place where classification, segregation and special care or supervision will occur by using information conveyed to those responsible for the

facility. If a minor is being held in protective custody, for example, or if minors from rival gangs are being taken to court at the same time, court holding facility staff must be aware of this information in order to avoid transporting or holding these minors inappropriately. Minors that pose a danger to staff or other minors must be handled accordingly.

The key is to develop and utilize procedures for sharing critical information. In some cases, this could require coordination between two different divisions of an agency (such as transportation and court services) or two separate agencies (such as probation and the sheriff's department or marshal's office). It is important that division chiefs or department heads, or their representatives, work together to develop, implement, monitor and update or otherwise modify a viable plan for classification.